

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:15-CR-230-JAR-1
)	
JACOBI TEMPLE,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge John M. Bodenhausen. (Doc. No. 343.) Defendant filed objections to the Report and Recommendation on November 30, 2017 (Doc. No. 353); the Government filed its response to Defendant's objections on December 7, 2017 (Doc. No. 356).

On January 20, 2017, Defendant Jacobi Temple filed a Motion to Suppress Statements (Doc No. 228), a Motion to Suppress Identification (Doc. Nos. 229, 230), and a Motion to Suppress Evidence (Doc. Nos. 231, 236). Pursuant to 28 U.S.C. § 636(b), the matter was referred to United States Magistrate Judge John M. Bodenhausen. Judge Bodenhausen held evidentiary hearings over the course of four days on March 21-22; April 6; and July 13, 2017. (Doc. Nos. 280-81, 286, 325.) After considering all of the testimony and evidence, and thoroughly analyzing the relevant case law, Judge Bodenhausen issued a 103-page Report and Recommendation on October 6, 2017, recommending that Defendant's motions to suppress statements, identification and evidence be denied. (Doc. No. 343.)

Defendant filed objections to the Report and Recommendation on November 30, 2017 and requested additional findings of fact, namely, that: (i) Brittany Brown stated that Temple did not have any facial hair (Gov. Ex. 8); (ii) the photograph of Temple shown in this case shows Temple

with facial hair (Gov. Exs. 8 and 9B); and (iii) Brown made her identification of Temple as being “KJ” after only being shown a single photograph. (Doc. No. 353.) Because they appear to be factually correct, the Court will supplement the Findings of Fact with the additional findings that (i) Brittany Brown stated that Temple did not have any facial hair; and (ii) the photograph of Temple shown in this case shows Temple with what appears to be some facial hair. These additional facts in no way affect this Court’s conclusion on the motions to suppress or the in-depth analysis of the Magistrate Judge on the totality of the circumstances surrounding the identification procedure. The Court declines to make a finding that Brown identified Temple as “KJ” after only being shown a single photograph because the Court believes that mischaracterizes the evidence and testimony.

In all other respects the Court will adopt and sustain the thorough reasoning and extensive legal analysis of Magistrate Judge Bodenhausen set forth in support of his recommended rulings.

Accordingly,

IT IS HEREBY ORDERED that in accordance with the ruling herein, the Report and Recommendation of the United States Magistrate Judge [343] is **SUSTAINED, ADOPTED, AND INCORPORATED** herein.

IT IS FURTHER ORDERED that Defendant’s Motion to Suppress Statements [228] is **DENIED**.

IT IS FURTHER ORDERED that Defendant’s Motion to Suppress Identification [229] is **DENIED**.

IT IS FURTHER ORDERED that Defendant’s Motion to Suppress Evidence [231] is **DENIED**.

Dated this 27th day of February, 2018.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE